

Office of Personnel Management

§ 890.1069

(c) *Contents of the notice.* OPM's notice must contain, at a minimum:

(1) The statement that OPM proposes to impose penalties and/or assessments against the provider;

(2) Identification of the actions, conduct, and claims that comprise the basis for the proposed penalties and assessments;

(3) The amount of the proposed penalties and assessments, and an explanation of how OPM determined those amounts;

(4) The statutory and regulatory bases for the proposed penalties and assessments; and

(5) Instructions for responding to the notice, including specific explanations regarding:

(i) The provider's right to contest the imposition and/or amounts of penalties and assessments before they are formally imposed; and

(ii) OPM's right, if the provider does not contest the proposed penalties and assessments within 30 days of the date he receives the notice, to implement them immediately without further administrative appeal or recourse.

(d) *Proposing debarment in the same notice.* OPM may propose a provider's debarment in the same notice that also proposes penalties and assessments. In this case, the notice must also provide the elements of information required to appear in a notice of proposed debarment under § 890.1006(b).

(e) *Procedures if the notice cannot be delivered.* OPM must apply the provisions of § 890.1006(f) if the notice of proposed penalties and assessments cannot be delivered as originally addressed.

(f) *Sending notice by electronic means.*
[Reserved]

§ 890.1067 Provider contests of proposed penalties and assessments.

(a) *Contesting proposed sanctions.* A provider may formally contest the proposed penalties and assessments by sending a written notice to the debarring official within 30 days after receiving the notice described in § 890.1066. The debarring official must apply the administrative procedures set forth in §§ 890.1069 and 890.1070 to decide the contest.

(b) *Contesting debarments and financial sanctions concurrently.* If OPM proposes

debarment and penalties and assessments in the same notice, the provider may contest both the debarment and the financial sanctions in the same proceeding. If the provider pursues a combined contest, the requirements set forth in §§ 890.1022 through 890.1024, as well as this section, apply.

(c) *Settling or compromising proposed sanctions.* The debarring official may settle or compromise proposed sanctions at any time before issuing a final decision under § 890.1070.

§ 890.1068 Effect of not contesting proposed penalties and assessments.

(a) *Proposed sanctions may be implemented immediately.* In the absence of a timely response by a provider as required in the notice described in § 890.1066, the debarring official may issue a final decision implementing the proposed financial sanctions immediately, without further procedures.

(b) *Debarring official sends notice after implementing sanctions.* Immediately upon issuing a final decision under paragraph (a), the debarring official must send the provider written notice, via certified return receipt mail or express delivery service, stating:

(1) The amount of penalties and assessments imposed;

(2) The date on which they were imposed; and

(3) The means by which the provider may pay the penalties and assessments.

(c) *No appeal rights.* A provider may not pursue a further administrative or judicial appeal of the debarring official's final decision implementing any sanctions if a timely contest was not filed in response to OPM's notice under § 890.1066.

§ 890.1069 Information the debarring official must consider in deciding a provider's contest of proposed penalties and assessments.

(a) *Documentary material and written arguments.* As part of a provider's contest, the provider must furnish a written statement of reasons why the proposed penalties and assessments should not be imposed and/or why the amounts proposed are excessive.

(b) *Mandatory disclosures.* In addition to any other information submitted